

What are the transactions since 2009 that have resulted in a consent agreement or merger challenge in Canada?

These transactions are set out in the table below. Note that notwithstanding the media focus on large technology companies, merger enforcement cases in Canada are weighted heavily towards traditional industries such as retail, agriculture, manufacturing, pharmaceuticals and other conventional, long-established industries.

Year	Deal	Industry	Consent agreement or merger challenge under section 92?	Notes
2022	Pembina / KKR / Energy Transfer	Pipelines	Consent agreement	A “prevent” case. The divested asset was a 50% interest in a pipeline project.
	Neighbourly / Rubicon	Retail	Consent agreement	Sale of a small number of pharmacies
	Rogers / Shaw	Telecom	Merger challenge	No decision on section 104 as Rogers voluntarily gave the Bureau the 104 on the eve of having to defend it. No decision yet on section 92.
2021	S&P / IHS Markit	Software / Market Data	Consent agreement	International deal
	GFL / Terrapure	Waste	Merger challenge but then settled via a consent agreement	No decision, settled
	Secure / Tervita	Waste	Merger challenge	No decision yet on section 92. Decision to deny 104 interim injunction (but see subsequent Federal Court of Appeal decision). Decision to deny 104 interim hold separate.
	Paper Excellence / Domtar	Pulp & Paper	Consent agreement	
	MacEwan / Grant Castle	Gas stations	Consent agreement	One gas station
	Federated Co-op / Blairs	Agriculture	Consent agreement	

Year	Deal	Industry	Consent agreement or merger challenge under section 92?	Notes
2020	Wesco / Anixter	Industrial Distributors	Consent agreement	Consent agreement entered into after closing
	Elanco / Bayer	Pharma	Consent agreement	International deal
	Evonik / PeroxyChem	Chemicals	Consent agreement	
2019	Parrish & Heimbecker / Louis Dreyfus	Agriculture (grain elevators)	Merger challenge	No decision yet on section 92. Case involves a single grain elevator.
	American Iron & Metal / Total Metal Recovery	Scrap Metals	Consent agreement (abandoned)	Buyer entered consent agreement to hold separate pending final outcome of Bureau review but Bureau ultimately decided no divestitures necessary.
	Thoma Bravo / Aucerna	Software	Merger challenge but then settled via consent agreement	Settled. Voluntary hold separate registered at Tribunal was in place.
2018	Coop Federee / Cargill	Agriculture	Consent agreement	
	Praxair / Linde	Industrial Gases	Consent agreement	International deal. Divested entire Canadian business.
	Bayer / Monsanto	Agriculture	Consent agreement	International deal.
	BASF / Bayer	Agriculture	Consent agreement	This was a "remedy to the remedy".
	Metro / Jean Coutu	Retail	Consent agreement	Sale of a small number of pharmacies
2017	Bell / MTS	Telecom	Consent agreement	Divestiture purchaser signed consent agreement. Behavioural features.
	Sherwin-Williams / Valspar	Paint	Consent agreement	International deal.
	Parkland / CST	Gas stations	Consent agreement	
	Couche Tard / CST	Gas stations	Consent agreement	

Year	Deal	Industry	Consent agreement or merger challenge under section 92?	Notes
	Dow / Dupont	Chemicals	Consent agreement	International deal.
	Superior Plus / Gibson	Propane	Consent agreement	Efficiencies defence played a role
	Abbott / Alere	Medical Products	Consent agreement	International deal.
2016	Abbott / St Jude	Medical Products	Consent agreement	International deal.
	McKesson / Rexall	Retail	Consent agreement	Sale of a small number of pharmacies, plus behavioural elements.
	Couche Tard / Mac's	Gas stations	Consent agreement	Sale of a small number of gas stations.
	Agrium / Andrukow	Agriculture	Consent agreement	
	Harnois / Therrien	Gas stations	Consent agreement	Sale of a small number of gas stations.
	Agrium / Wendland	Agriculture	Consent agreement	
	Teva / Allergan	Pharma	Consent agreement	International deal.
	Iron Mountain / Recall	Records Storage	Consent agreement	International deal.
2015	Staples / Office Depot	Office Products	Merger challenge, abandoned	No decision, deal abandoned due to U.S. issues.
	Pfizer / Hospira	Pharma	Consent agreement	International deal.
	Kingspan / Vicwest	Steel products	Consent agreement	
	BCE / Rogers / Glentel	Telecom	Consent agreement	Heavy on behavioural elements
	Holcim / Lafarge	Cement	Consent agreement	International deal.
	Parkland / Pioneer	Gas stations	Merger challenge but then settled via consent agreement	Settled. Decision to grant, in part, a 104 interim hold separate for small number of gas stations.

Year	Deal	Industry	Consent agreement or merger challenge under section 92?	Notes
2014	Medtronic / Covidien	Medical Products	Consent agreement	International deal.
	Transcontinental / Quebecor	Community newspapers	Consent agreement	Failing firm case, divestiture assets went straight to the divestiture trustee. No initial sale period.
	Loblaws / Shoppers	Retail	Consent agreement	Small number of stores
2013	Coop Fedérée / BMR	Retail	Consent agreement	Franchise termination rather than divestiture
	Sobeys / Safeway	Retail	Consent agreement	Small number of stores
	Agrium / Glencore assets	Agriculture	Consent agreement	
	BCE / Astral	Media	Consent agreement	
	Waste Management / RCI	Waste	Consent agreement	
2012	Air Canada / United Continental JV	Air Transportation	Merger challenge but then settled via consent agreement	No decision, settled.
	Reliance / Just Energy	Water Heaters	Consent agreement	The Bureau entered into two consent agreements. One was to resolve misleading advertising allegations relating to the target. The other was to resolve an earlier dominance application against the buyer. They collectively resulted in the clearance of the merger, hence their inclusion here.
2011	Tervita (CCS) / Complete Environmental	Waste (a single landfill)	Merger challenge	Decision on section 92. Bureau wins this “merger to monopoly” case but overturned by Supreme Court on a technicality relating to efficiencies, nearly four years later.
2010	Coca-Cola / Coca-Cola Bottling	Bottling	Consent agreement	Heavy on behavioural elements
	Novartis / Alcon	Medical Products	Consent agreement	International deal.
	Teva / Ratiopharm	Pharma	Consent agreement	

Year	Deal	Industry	Consent agreement or merger challenge under section 92?	Notes
	IESI-BFC / Waste Services (this became Progressive Waste then merged with Waste Connections)	Waste	Consent agreement	
	Ticketmaster / Live Nation	Entertainment	Consent agreement	Includes behavioural elements
2009	Suncor / Petro Canada	Gas Stations	Consent agreement	Led to Husky expansion into Ontario. Cenovus 2022 sale transactions would in a sense reverse Husky's entry 13 years ago. Includes behavioural elements.
	Agrium / CF Industries	Fertilizer	Consent agreement (deal abandoned)	
	Merck / Schering-Plough	Pharma	Consent agreement	International deal.
	Pfizer / Wyeth	Pharma	Consent agreement	International deal.
	Clean Harbors / Everready	Waste	Consent agreement	



Subscribe to updates on a variety of valuable legal topics.
Visit Stikeman Elliott's Knowledge Hub at [stikeman.com/kh](https://www.stikeman.com/kh).

This publication is intended to convey general information about legal issues and developments as of the indicated date. It does not constitute legal advice and must not be treated or relied on as such. Please read our full disclaimer at www.stikeman.com/legal-notice
© Stikeman Elliott LLP 2022-08-22